

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BOB MILL	:	CIVIL ACTION
a/k/a "Mr. Thomas Moore"	:	
	:	
vs.	:	
	:	
DONALD L. KELCHNER, et al.	:	NO. 06-5083

MEMORANDUM

ROBERT F. KELLY, Sr. J.

MAY 9, 2007

On April 20, 2007, a Report and Recommendation was filed in the above-captioned case recommending dismissal without prejudice for failure of the petitioner to comply with the exhaustion requirements of 28 U.S.C. § 2254(b)(1)(A). On May 7, 2007, this *pro se* petitioner filed a motion for summary judgment which we shall treat as exceptions to the Report and Recommendation.

The motion filed by petitioner merely re-states the grounds already alleged in the original petition and will therefore be denied.

We therefore enter the following Order.

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a/k/a "Mr. Thomas Moore"	:	
	:	
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	:	
DONALD L. KELCHNER, et al.	:	NO. 06-5083

ORDER

AND NOW, this 9th day of May, 2007, upon careful and independent consideration of the petition for writ of habeas corpus, and after review of the Report and Recommendation of United States Magistrate Judge Elizabeth T. Hey, **IT IS ORDERED** that:

1. Petitioner's objections to the Report and Recommendation styled as a Motion for Summary Judgment (Doc. No. 19) is hereby **DENIED**.
2. The Report and Recommendation is **APPROVED and ADOPTED**.
3. The petition for a writ of habeas corpus is **DISMISSED** without prejudice.
4. There is **no** basis for the issuance of a certificate of appealability.

BY THE COURT:

/s/ Robert F. Kelly
ROBERT F. KELLY
SENIOR JUDGE